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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------------|---------------------|------------------|
| 10/719,755 | 11/21/2003 | Andrea Demetrius Bowens-Jones | 9447 | 3138 |

27752 7590 01/03/2007
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| EXAMINER |
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CLAYTOR, DEIRDRE RENEE

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| ART UNIT | PAPER NUMBER |
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1617

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|----------------------------------------|------------|---------------|
| 3 MONTHS | 01/03/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/719,755

Applicant(s)

BOWENS-JONES ET AL.

Examiner

Renee Claytor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's response to the Office Action mailed on 9/25/2006 is hereby acknowledged. Due to Applicant's amendments to the claims, the 35 USC § 112 rejection is hereby withdrawn. In view of Applicant's amendments, a revised version of the previous office action is given below.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Schraer et al. (U.S. Patent 6,274,127 B1) in view of Swaile (U.S. Patent 6,149,897).

Schraer et al. teach an anhydrous antiperspirant composition comprised of water-reactive monomers (Col. 2, lines 46-49). The water-reactive monomers include cyanoacrylate esters, at a concentration of 0.1-60% (meeting the limitations of claims 1-5; Col. 3, lines 64-67 – Col. 4, lines 1-43). The composition also contains skin-adhering polymers such as copolymers of acrylates and silicone copolyols and silicone elastomers (also meeting the limitation of claims 1, 3-5; Col. 9, lines 41-45, Table 1). The composition contains an anhydrous carrier, such as a cyclic silicone, in a concentration from about 1% to 99% (meeting the limitation of claims 1, 2, and 13; Col. 4, lines 49-54; Col. 5, lines 17-24 and 40-43). The antiperspirant composition also contains deodorant actives, which are antimicrobial agents (meeting the limitations of

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claims 15-16, Col. 6, lines 63-66). Antiperspirant actives in the composition include aluminum and zirconium salts in a concentration from about 0.1% to 30% (meeting the limitation of claims 1, 2, and 11; Col. 8, lines 19-22, lines 29-38). The composition also contains thickening agents such as organic solids, silicone solids, and gellants, in a concentration from about 0.1% to about 35% (meeting the limitation of claims 1, 2, and 12; Col. 9, lines 22-27). The ratio of the polymer is proportional to the weight of the thickening agent as shown in Table 1 (weights shown as percentages of the total composition; meeting the limitation of claim 8).

Schraer et al. does not teach a volatile solvent, the glass transition temperature of the skin-adhering polymer, or the film-formation at or above the entanglement molecular weight of the polymer.

Swaile teaches an anhydrous antiperspirant composition where a possible anhydrous solvent is ethanol (further meeting the limitation of claims 1, 9 and 10; Col. 4, lines 57-63 and Claim 5).

Furthermore, it is obvious to vary and/or optimize the concentration of the volatile solvent, and the glass transition temperature of the skin-adhering polymer provided in the composition, according to the guidance provided by Schraer et al., to provide a composition having the desired properties such as the desired concentration of the volatile solvent and the desired glass transition temperature of the skin-adhering polymer to effectively adhere to the skin. It is noted that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or

workable ranges by routine experimentation.” In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Furthermore it is obvious that the skin-adhering polymer will have the same properties, such as film-formation at or above the entanglement molecular weight of the polymer used. Because the skin-adhering polymer of the prior art and the skin-adhering polymer of the instant application are the same, they will share the same physical properties.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Schraer et al. which teaches an anhydrous antiperspirant composition comprised of a skin-adhering polymer, an anti-perspirant active, a thickening agent, and an anhydrous carrier with the teachings of Swaile which also teach an anhydrous antiperspirant composition with ethanol as a volatile solvent. One having ordinary skill in the art at the time the invention was made would have been motivated to combine the ingredients of Schraer et al. and add ethanol from the teachings of Swaile to provide improved dry feel application, antiperspirant efficacy and stability of the dissolved active.

Response to Arguments

Applicant's argue that the Schrader et al. reference does not cite materials that are skin-adhering polymers but suspending/thickening agents. Applicant's refer to the Schrader et al. reference as stating that the suspending/thickening agents “provide the composition with the desired viscosity, rheology, texture and/or product hardness”. This

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argument is not found to be persuasive because the compounds used in the invention will have the same properties, regardless of what it is named by different inventors.

Furthermore, Schrader et al. teach water-reactive monomers (Col. 2, lines 46-49; Col. 3, lines 49-67 - Col. 4, lines 1-43) which include cyanoacrylate esters in monomeric form.

These water-reactive monomers are taught to form discontinuous polymer-containing films over the sweat glands on the skin and act as plugs within the ducts to help prevent perspiration. Applicant's argue also that these agents described by Schrader et al.

would be destroyed if combined with the volatile solvent of Swaile et al. Applicant's refer to the specification in which it is stated that the "function of the volatile solvent as part of the skin-adhering system is to aid in rapid film formation by evaporating quickly on skin to leave behind the polymer film, active and other components" (pg. 4, lines 30-32).

This argument is not found persuasive. Swaile et al. similarly teaches anhydrous compositions and teach that the addition of an anhydrous solvent provides an improved dry feel application, antiperspirant efficacy and stability of the dissolved active. Just as the function of the volatile solvent is described in the specification as evaporating quickly, Swaile et al. teaches that the anhydrous solvent leaves a dry feel application, which is interpreted as evaporation. The argument that the skin-adhering polymers would be destroyed by the addition of the volatile solvent is not convincing since the Applicant made the composition with the same materials as is taught in Schrader et al. in addition with a volatile solvent and the skin-adhering polymers were not destroyed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is 571-272-8394. The examiner can normally be reached on M-F 8:00-4:30.

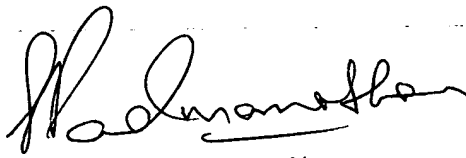
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER